

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Lee, Hoyong Group Art Unit: 2175
Serial No.: 10/602,146 Examiner: Nunez, Jordany
Filed: June 24, 2003 Confirmation No.: 9878
For: WEB-BASED USER INTERFACE FOR PERFORMING PROVISIONING

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant now submits its brief in this appeal. The only claims remaining on appeal are claims 4, 15 and 21. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds in the amount of \$540.00, as well as for any additional fees or credit the account for any overpayment.

Real Party in Interest

Lucent Technologies, Inc. is the Assignee of this application. Lucent Technologies, Inc. is a part of Alcatel-Lucent U.S.A.

Related Appeals and Interferences

There are no related appeals or interferences.

Status of the Claims

Claims 1-3, 5-14, 16-20 and 22-28 are cancelled. Claims 4, 15 and 21 are pending and the only claims on appeal.

Claims 4, 15 and 21 stand rejected under 35 U.S.C. §103 based upon the proposed combination of United States Patent No. 6,950,990 (the *Rajarajan* reference) and the United States Patent Application Publication No. US 2002/0093537 (the *Bocioned* reference).

Status of Amendments

Appellant is filing an amendment concurrent with filing this brief in order to cancel the claims that are not on appeal. That amendment presents claims 4, 15 and 21 rewritten in independent form. As of the filing date of this brief, Appellant does not know whether the Examiner is entering that amendment. Appellant respectfully submits that the amendment should be entered.

Summary of Claimed Subject Matter

Claims 4, 15 and 21 are on appeal. Each of those claims are reproduced below with references to the drawings and specification. Those references indicate how the claims read on one example embodiment as disclosed in this application.

4. One or more computer-readable media comprising computer executable instructions that, when executed, direct a computer to:

display Web-based pages on a display device, each Web-based display page comprising: a first area containing a graphical workflow indicator that provides an ordered list of user-selectable tasks associated with performing provisioning hardware resources in order to organize said computer hardware resources into a network, wherein provisioning hardware resources comprises configuring physical links or service channels among network elements {Figures 1 and 2: 124, 126, 128, 132 and page 7, lines 10-22}; and

a second area containing at least display information that includes a map of the network and parameter fields associated with a particular one of the user-selectable tasks, such that when a particular one of the user-selectable tasks is selected from the first area, the display information and parameter fields necessary to complete operations associated with the particular one of the user-selectable tasks are presented in the second area {Figures 1 and 2: 134, 136, 138, 140, 142 and page 8, line 9 – page 9, line 2}.

15. A system, comprising: a memory comprising a set of computer-executable instructions; and a processor coupled to the memory, the processor configured to execute the computer-executable instructions for displaying Web-based pages on a display device, each Web-based display page comprising:

a first area containing a graphical workflow indicator that provides an ordered list of user-selectable tasks associated with performing provisioning hardware resources in order to organize said computer hardware resources into a network, wherein provisioning hardware resources comprises configuring physical links or service channels among network elements {Figures 1 and 2: 124, 126, 128, 132 and page 7, lines 10-22}; and

a second area containing at least display information that includes a map of the network and parameter fields associated with a particular one of the user-selectable tasks, such that when a particular one of the user-selectable tasks is selected from the first area, the display information and parameter fields necessary to complete operations associated with the particular one of the user-selectable tasks are presented in the second area {Figures 1 and 2: 134, 136, 138, 140, 142 and page 8, line 9 – page 9, line 2}.

21. A method for displaying Web-based pages on a display device, comprising:

displaying on each Web-based display page a first area containing a graphical workflow indicator that provides an ordered list of user-selectable tasks associated with performing provisioning of remotely located computer hardware resources in order to organize said computer hardware resources into a network, wherein provisioning hardware resources comprises configuring physical links or service channels among network elements {Figures 1 and 2: 124, 126, 128, 132 and page 7, lines 10-22};

displaying on each Web-based display page a second area containing at least display information that includes a map of the network and parameter fields associated with a particular one of the user-selectable tasks, such that when a particular one of the user-selectable tasks is selected from the first area, at least the display information and parameter fields necessary to complete operations associated with the particular one of the user-selectable tasks are rendered in the second area {Figures 1 and 2: 134, 136, 138, 140, 142 and page 8, line 9 – page 9, line 2}.

Grounds of Rejection to be Reviewed on Appeal

Claims 4, 15 and 21 stand rejected under 35 U.S.C. §103 based upon the proposed combination of United States Patent No. 6,950,990 (the *Rajarajan* reference) and the United States Patent Application Publication No. US 2002/0093537 (the *Bocioned* reference).

ARGUMENT

There is no *prima facie* case of obviousness. At least two of the claimed limitations are missing from the proposed combination of the *Rajarajan* and *Bocioned* references. There is nothing in either of those references that discloses provisioning hardware resources including configuring physical links or service channels among network elements. Additionally, there is nothing in either reference that constitutes display information that includes a map of the network for which the provisioning is being done. If either of those were missing, there would be no *prima facie* case of obviousness. Both of them are missing from the proposed combination and, therefore, there is no *prima facie* case of obviousness. Additionally, there is no legally sufficient reason for adding either of those features to the proposed combination and there is no *prima facie* case of obviousness.

The rejection of claims 4, 15 and 21 under 35 U.S.C. §103 must be reversed.

There are several reasons why the rejection must be reversed. First, the proposed combination of references does not have anything corresponding to Appellant's claimed "provisioning hardware resources [that] comprises configuring physical links or service channels among network elements."

Appellant respectfully disagrees with the Examiner's contention that the *Rajarajan* reference teaches that.

The Examiner suggests that the *Rajarajan* reference teaches "provisioning hardware resources comprises configuring physical links or service channels among network elements (col. 11, l. 26-41; col. 37, l. 51-62; col. 38, l. 20-30) (e.g., an active directory plug in includes an explorer tool which may, for example, add, edit, activate, and/or deactivate, a user object email account -- e.g., physical link or service channel --, and the user objects may additionally include servers,

databases, hosting, etc.).” Applicant respectfully submits that it is not a reasonable interpretation of the *Rajarajan* reference to consider the software email account and the use of that in the *Rajarajan* reference as provisioning hardware resources or as configuring physical links or service channels among network elements. Instead, the *Rajarajan* reference makes it clear that it considers the email account features of that reference to be software, not hardware. Therefore, the proper interpretation of *Rajarajan*’s use of the email account and associated software is not provisioning hardware resources and is not configuring a physical link or a service channel among network elements.

For example, in column 5, lines 22-26, the *Rajarajan* reference distinguishes between hardware devices such as printers, workstations, servers, etc., and software related elements such as databases, security systems, email accounts and user accounts, among others. The reference teaches that the email account is a software element not a hardware element and, therefore, use of it according to the teachings of the *Rajarajan* reference should not be considered provisioning hardware by configuring a physical link or service channel among network elements. Further, in column 11, the reference says that “an email application may be installed” (line 34). An email application is software not hardware. Applicant respectfully submits that the Examiner’s interpretation of the email account and related features of the *Rajarajan* reference is not consistent with how one skilled in the art would interpret provisioning hardware resources and is not establishing a physical link or a service channel. Therefore, Applicant respectfully submits that there is no *prima facie* case of obviousness.

Assigning an email address, for example, does not configure a physical link. At best, it associates an address with an email application (i.e., software) associated with a particular user device. The teachings of the *Rajarajan* reference do not constitute provisioning hardware by configuring a physical link or service channel.

Given that there is no provisioning within the *Rajarajan* reference as suggested by the Examiner, there is no *prima facie* case of obviousness even if the proposed combination were made.

Additionally, there is nothing in either reference that constitutes display information including a map of the network as claimed by Appellant. In the Final Office Action on page 5, the Examiner acknowledges that the proposed combination of references fails to specifically show display information includes a map of a network. The Examiner then reasoned that such a difference is “only found in the nonfunctional descriptive material” and that such “nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability.” The Examiner cannot apply a “nonfunctional descriptive material” rejection to any of claims 4, 15 or 21 on appeal.

The Examiner cites, as an example, the *In re: Lowry* decision in support of the nonfunctional descriptive material basis for the rejection. The *In re: Lowry* decision, however, makes it clear that such a rejection is inappropriate for a case such as this. As explained by the Court of Appeals for the Federal Circuit, “the printed matter cases have no factual relevance where there ‘the invention as defined by the claims *requires* that the information be processed not by the mind but by a machine, the computer.’” *In re: Lowry*, 32 U.S.P.Q. 2d, 1031, 1034 (Fed. Cir. 1994). (Emphasis in original).

Claims 4, 15 and 21 all require operation by a computer. Therefore, a printed matter or non-functional descriptive material rejection cannot be made in this case. Additionally, Appellant’s claim limitations are more than non-functional descriptive material. Either way, the rejection must be reversed. There is no *prima facie* case of obviousness because the Examiner admits that the art does not teach all the limitations of the claims.

In the decision on Appellant's Pre-Appeal Brief Request for Review, the Examiner did provide further comments regarding claims 4, 15 and 21. The Examiner stated that the *Bocioned* reference teaches a map of a network because Figure 5 shows different print options for a printer at 517. The Examiner contends that the printer icons on the display of figures teaches a map of network elements. Appellant respectfully disagrees.

The display in the *Bocioned* reference Figure 5 shows several icons of different printers that a user could select. There is no way in which those icons display any information that constitutes a map of a network. There is no indication of location for those printers or any links or connections between those printers and any other alleged network element. It is not a reasonable interpretation of Figure 5 of the *Bocioned* reference as displaying a map of a network. It does not provide any network map information consistent with how a network map is understood by one skilled in the art. There is no basis for the rejection because the display information that includes a map of the network as recited in Appellant's claims cannot be found in the references.

Additionally, it cannot be considered obvious to add the missing limitations into the proposed combination. There would be no benefit to adding provisioning hardware comprising configuring physical links or service channels among network elements to either of the *Rajarajan* or *Bocioned* references. Neither of those references have anything to do with setting up physical hardware including configuring links or service channels between them. Therefore, adding that to the proposed combination would not provide any benefit because it doesn't have any usefulness in the context of the proposed combination. Without any benefit or usefulness, the legally required reason for making the combination is missing and there is no basis for adding that to the proposed combination to somehow try to manufacture a *prima facie* case of obviousness.

At best, such a suggestion would come only from Appellant's claims and description which, of course, would be improper hindsight reasoning.

Similarly, there is no benefit or usefulness for a map of a network to be displayed in either of the references or the proposed combination. Without any benefit or usefulness for such an alleged addition, there is no legally sufficient reason for making such a change to the proposed combination and there is no *prima facie* case of obviousness.

Appellant respectfully submits that the rejection of claims 4, 15 and 21 under 35 U.S.C. §103 must be reversed.

CONCLUSION

There are limitations in Appellant's claims that are not found in the proposed combination. There is no legally sufficient reason to add those limitations to the proposed combination, either. The rejection under 35 U.S.C. §103 of claims 4, 15 and 21 must be reversed.

Respectfully submitted,

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September 28, 2009

Date

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APPENDIX OF CLAIMS

1-3. (Cancelled)

4. One or more computer-readable media comprising computer executable instructions that, when executed, direct a computer to:

display Web-based pages on a display device, each Web-based display page comprising: a first area containing a graphical workflow indicator that provides an ordered list of user-selectable tasks associated with performing provisioning hardware resources in order to organize said computer hardware resources into a network, wherein provisioning hardware resources comprises configuring physical links or service channels among network elements; and

a second area containing at least display information that includes a map of the network and parameter fields associated with a particular one of the user-selectable tasks, such that when a particular one of the user-selectable tasks is selected from the first area, the display information and parameter fields necessary to complete operations associated with the particular one of the user-selectable tasks are presented in the second area.

5 - 14. (Cancelled)

15. A system, comprising: a memory comprising a set of computer-executable instructions; and a processor coupled to the memory, the processor configured to execute the computer-executable instructions for displaying Web-based pages on a display device, each Web-based display page comprising:

a first area containing a graphical workflow indicator that provides an ordered list of user-selectable tasks associated with performing provisioning hardware resources in order to organize said computer hardware resources into a network, wherein provisioning hardware resources comprises configuring physical links or service channels among network elements; and

a second area containing at least display information that includes a map of the network and parameter fields associated with a particular one of the user-selectable tasks, such that when a particular one of the user-selectable tasks is selected from the first area, the display information and parameter fields necessary to complete operations associated with the particular one of the user-selectable tasks are presented in the second area.

16 – 20. (Cancelled)

21. A method for displaying Web-based pages on a display device, comprising:

displaying on each Web-based display page a first area containing a graphical workflow indicator that provides an ordered list of user-selectable tasks associated with performing provisioning of remotely located computer hardware resources in order to organize said computer hardware resources into a network, wherein provisioning hardware resources comprises configuring physical links or service channels among network elements;

displaying on each Web-based display page a second area containing at least display information that includes a map of the network and parameter fields associated with a particular one of the user-selectable tasks, such that when a particular one of the user-selectable tasks is selected from the first area, at least the display information and parameter fields necessary to complete operations associated with the particular one of the user-selectable tasks are rendered in the second area.

22 – 28. Cancelled.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.